U.S. DISTRICT COURT AUGUSTA DIV.

## IN THE UNITED STATES DISTRICT COURT

2018 MAY 10 PM 3: 09

## FOR THE SOUTHERN DISTRICT OF GEORGIA

AUGUSTA DIVISION

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MELVIN CHRISTOPHER CARTER,	)	
Petitioner,	) )	
V.	)	CV 117-130 (Formerly CR 112-176)
UNITED STATES OF AMERICA,	) )	,
Respondent.	)	

## ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, to which objections have been filed. (Doc. no. 9.) Accordingly, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge as its opinion, and therefore **DENIES** Petitioner's motion filed pursuant to 28 U.S.C. § 2255 without an evidentiary hearing.

Further, a federal prisoner must obtain a certificate of appealability ("COA") before appealing the denial of his motion to vacate. This Court "must issue or deny a certificate of appealability when it enters a final order adverse to the applicant." Rule 11(a) to the Rules Governing Section 2255 Proceedings. This Court should grant a COA only if the prisoner makes a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). For the reasons set forth in the Report and Recommendation, and in consideration of the standards enunciated in <u>Slack v. McDaniel</u>, 529 U.S. 473, 482-84 (2000), Petitioner has

failed to make the requisite showing. Accordingly, the Court **DENIES** a COA in this case. Moreover, because there are no non-frivolous issues to raise on appeal, an appeal would not be taken in good faith. Accordingly, Petitioner is not entitled to appeal *in forma pauperis*.

See 28 U.S.C. § 1915(a)(3).

Upon the foregoing, the Court **CLOSES** this civil action and **DIRECTS** the Clerk to enter final judgment in favor of Respondent.

SO ORDERED this /Ok day of May, 2018, at Augusta, Georgia.

UNITED STATES DISTRICT JUDGE

<sup>&</sup>lt;sup>1</sup>"If the court denies a certificate, a party may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22." Rule 11(a) to the Rules Governing Section 2255 Proceedings.